

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 848**  
**98TH GENERAL ASSEMBLY**

---

Reported from the Committee on Commerce, Consumer Protection, Energy and the Environment, April 5, 2016, with recommendation that the Senate Committee Substitute do pass.

5535S.05C

ADRIANE D. CROUSE, Secretary.

---

**AN ACT**

To repeal sections 386.266, 393.1000, 393.1003, 393.1006, and 393.1012, RSMo, and to enact in lieu thereof seven new sections relating to rate schedules authorized for certain utilities outside of general rate proceedings.

---

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 386.266, 393.1000, 393.1003, 393.1006, and 393.1012, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 386.266, 386.267, 393.1000, 393.1003, 393.1006, 393.1007, and 393.1012, to read as follows:

386.266. 1. Subject to the requirements of this section, any electrical corporation may make an application to the commission to approve rate schedules authorizing an interim energy charge, or periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred fuel and purchased-power costs, including transportation. The commission may, in accordance with existing law, include in such rate schedules features designed to provide the electrical corporation with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased-power procurement activities.

2. Subject to the requirements of this section, any electrical, gas, or water corporation may make an application to the commission to approve rate schedules authorizing periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred costs, whether capital or expense, to comply with any federal, state, or local environmental law, regulation, or rule. Any rate adjustment made under such rate schedules shall

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 not exceed an annual amount equal to two and one-half percent of the electrical,  
17 gas, or water corporation's Missouri gross jurisdictional revenues, excluding gross  
18 receipts tax, sales tax and other similar pass-through taxes not included in  
19 tariffed rates, for regulated services as established in the utility's most recent  
20 general rate case or complaint proceeding. In addition to the rate adjustment, the  
21 electrical, gas, or water corporation shall be permitted to collect any applicable  
22 gross receipts tax, sales tax, or other similar pass-through taxes, and such taxes  
23 shall not be counted against the two and one-half percent rate adjustment cap.  
24 Any costs not recovered as a result of the annual two and one-half percent  
25 limitation on rate adjustments may be deferred, at a carrying cost each month  
26 equal to the utilities net of tax cost of capital, for recovery in a subsequent year  
27 or in the corporation's next general rate case or complaint proceeding.

28 3. [Subject to the requirements of this section, any gas corporation may  
29 make an application to the commission to approve rate schedules authorizing  
30 periodic rate adjustments outside of general rate proceedings to reflect the nongas  
31 revenue effects of increases or decreases in residential and commercial customer  
32 usage due to variations in either weather, conservation, or both.

33 4.] The commission shall have the power to approve, modify, or reject  
34 adjustment mechanisms submitted under subsections 1 [to 3] **and 2** of this  
35 section only after providing the opportunity for a full hearing in a general rate  
36 proceeding, including a general rate proceeding initiated by complaint. The  
37 commission may approve such rate schedules after considering all relevant factors  
38 which may affect the costs or overall rates and charges of the corporation,  
39 provided that it finds that the adjustment mechanism set forth in the schedules:

40 (1) Is reasonably designed to provide the utility with a sufficient  
41 opportunity to earn a fair return on equity;

42 (2) Includes provisions for an annual true-up which shall accurately and  
43 appropriately remedy any over- or under-collections, including interest at the  
44 utility's short-term borrowing rate, through subsequent rate adjustments or  
45 refunds;

46 (3) In the case of an adjustment mechanism submitted under subsections  
47 1 and 2 of this section, includes provisions requiring that the utility file a general  
48 rate case with the effective date of new rates to be no later than four years after  
49 the effective date of the commission order implementing the adjustment  
50 mechanism. However, with respect to each mechanism, the four-year period shall  
51 not include any periods in which the utility is prohibited from collecting any

52 charges under the adjustment mechanism, or any period for which charges  
53 collected under the adjustment mechanism must be fully refunded. In the event  
54 a court determines that the adjustment mechanism is unlawful and all moneys  
55 collected thereunder are fully refunded, the utility shall be relieved of any  
56 obligation under that adjustment mechanism to file a rate case;

57 (4) In the case of an adjustment mechanism submitted under subsection  
58 1 or 2 of this section, includes provisions for prudence reviews of the costs subject  
59 to the adjustment mechanism no less frequently than at eighteen-month  
60 intervals, and shall require refund of any imprudently incurred costs plus  
61 interest at the utility's short-term borrowing rate.

62 [5.] 4. Once such an adjustment mechanism is approved by the  
63 commission under this section, it shall remain in effect until such time as the  
64 commission authorizes the modification, extension, or discontinuance of the  
65 mechanism in a general rate case or complaint proceeding.

66 [6.] 5. Any amounts charged under any adjustment mechanism approved  
67 by the commission under this section shall be separately disclosed on each  
68 customer bill.

69 [7.] 6. The commission may take into account any change in business risk  
70 to the corporation resulting from implementation of the adjustment mechanism  
71 in setting the corporation's allowed return in any rate proceeding, in addition to  
72 any other changes in business risk experienced by the corporation.

73 [8.] 7. In the event the commission lawfully approves an incentive- or  
74 performance-based plan, such plan shall be binding on the commission for the  
75 entire term of the plan. This subsection shall not be construed to authorize or  
76 prohibit any incentive- or performance-based plan.

77 [9.] 8. Prior to August 28, 2005, the commission shall have the authority  
78 to promulgate rules under the provisions of chapter 536 as it deems necessary,  
79 to govern the structure, content and operation of such rate adjustments, and the  
80 procedure for the submission, frequency, examination, hearing and approval of  
81 such rate adjustments. Such rules shall be promulgated no later than one  
82 hundred fifty days after the initiation of such rulemaking proceeding. Any  
83 electrical, gas, or water corporation may apply for any adjustment mechanism  
84 under this section whether or not the commission has promulgated any such  
85 rules.

86 [10.] 9. Nothing contained in this section shall be construed as affecting  
87 any existing adjustment mechanism, rate schedule, tariff, incentive plan, or other

88 ratemaking mechanism currently approved and in effect.

89       [11.] 10. Each of the provisions of this section is severable. In the event  
90 any provision or subsection of this section is deemed unlawful, all remaining  
91 provisions shall remain in effect.

92       [12.] 11. The provisions of this section shall take effect on January 1,  
93 2006, and the commission shall have previously promulgated rules to implement  
94 the application process for any rate adjustment mechanism under this section  
95 prior to the commission issuing an order for any rate adjustment.

96       [13.] 12. The public service commission shall appoint a task force,  
97 consisting of all interested parties, to study and make recommendations on the  
98 cost recovery and implementation of conservation and weatherization programs  
99 for electrical and gas corporations.

**386.267. 1. Subject to the requirements of this section, any gas,  
2 water, or sewer corporation may file, and the commission shall  
3 approve, revenue stabilization rate schedules authorizing periodic rate  
4 adjustments outside of general rate proceedings to ensure that the  
5 revenues actually collected by the gas, water, or sewer corporation do  
6 not vary from the revenues authorized in the corporation's last general  
7 rate proceeding due to the following factors:**

8       **(1) For gas corporations, any revenue variation due to increases  
9 or decreases in residential and commercial customer usage, exclusive  
10 of revenue variations accounted and adjusted for in the gas  
11 corporation's purchased gas and annual cost adjustment rates;**

12       **(2) For sewer corporations, any revenue variation due to  
13 increases or decreases in residential and commercial usage;**

14       **(3) For water corporations, any revenue variation due to  
15 increases or decreases in residential, commercial, public authority, and  
16 sale for resale customer usage.**

17       **2. The gas, water, or sewer corporation may, at its sole election,  
18 include provisions in the revenue stabilization rate schedules that  
19 account and adjust for revenue variations based either upon variations  
20 in the average revenue per customer for each applicable customer class  
21 or based on variations in overall revenue for each applicable customer  
22 class by tariff district. Such basis shall be used consistently for each  
23 customer class and for the entire period that the revenue stabilization  
24 rate schedules remain in effect. Revenue variations between general  
25 rate proceedings associated with commission approved surcharges,**

26 including infrastructure system replacement surcharges approved  
27 under sections 393.1000 to 393.1015 and environmental costs  
28 adjustments approved under subsection 2 of section 386.266, the  
29 purchase or sale of utility assets, or the loss or addition of utility  
30 customers shall be excluded from any adjustments made under the  
31 revenue stabilization rate schedules.

32       3. The filings made on and after the first anniversary of the  
33 revenue stabilization adjustment effective date shall include a  
34 reconciliation component that will compare the effective revenue  
35 stabilization adjustment revenues to the actual revenue stabilization  
36 adjustment revenues. The difference between the two shall be included  
37 in the revenue stabilization adjustment calculation.

38       4. Within thirty days of the anniversary date of the revenue  
39 stabilization rate schedules becoming effective and within thirty days  
40 of each annual anniversary date thereafter, the gas, water, or sewer  
41 corporation shall file revised rate schedules to return to or collect from  
42 each applicable customer class over the next annual period the  
43 difference between the revenues billed during the preceding annual  
44 period and the revenues authorized in the corporation's most recent  
45 general rate proceeding. For residential customers, any annual rate  
46 increase resulting from the revised rate schedules, combined with any  
47 quarterly increases, shall not be designed to exceed a per customer  
48 average of five dollars per month, provided that any revenue deficiency  
49 not recovered because of this limitation may be deferred, at a carrying  
50 cost each month equal to the corporation's net of tax cost of capital, for  
51 recovery in a subsequent year or in the corporation's next general rate  
52 or complaint proceeding. In each subsequent general rate proceeding,  
53 the per customer monthly limitation provided for under this subsection  
54 shall be adjusted up or down by a percentage amount equal to the net  
55 percentage increase or decrease in the consumer price index for all  
56 urban customers since the revenue stabilization rate schedules first  
57 went into effect. The per customer monthly limitation shall also be  
58 adjusted upward by an amount equal to any decrease in the fixed  
59 monthly customer charge for residential customers that may be  
60 approved by the commission in such general rate proceeding.

61       5. Any revenue stabilization rate schedule or revised rate  
62 schedule filed by a gas, water, or sewer corporation shall become

63 effective within thirty days. The commission shall review such rate  
64 schedules for the exclusive purpose of:

65 (1) Determining whether the revenue per customer or revenue  
66 per customer class used in the rate schedules are consistent with the  
67 revenue per customer or revenue per customer class and billing  
68 determinates used to set rates in the gas, water, or sewer corporation's  
69 most recent general rate proceeding;

70 (2) Determining whether any subsequent revisions to such rate  
71 schedules accurately reflect the difference between the revenues billed  
72 during the period under review and the revenues authorized in the  
73 corporation's most recent general rate proceeding;

74 (3) Ordering any adjustments to the gas, water, or sewer  
75 corporation's next revenue stabilization rate schedule filing that may  
76 be necessary to achieve these outcomes. Any such order making  
77 adjustments to the stabilization rate schedule shall be effective no later  
78 than thirty days after the date of issuance of such order.

79 6. Between each annual filing of revised revenue stabilization  
80 rate schedules, the gas, water, or sewer corporation may also make  
81 quarterly adjustments to reflect differences between the revenues  
82 billed during the prior quarterly period and the revenues authorized  
83 in the corporation's most recent general rate proceeding, provided such  
84 quarterly adjustments shall be made in a consistent manner each  
85 quarter for the entire period that the revenue stabilization rate  
86 schedules remain in effect. Such quarterly adjustments shall also be  
87 made on an interim basis, shall become effective within ten business  
88 days, and shall be subject to an overall annual reconciliation at the  
89 time the gas, water, or sewer corporation makes its next annual  
90 revenue stabilization rate filing.

91 7. Whenever a gas, water, or sewer corporation has a subsequent  
92 general rate proceeding, its revenue stabilization rate schedules shall  
93 be updated to reflect the revenue per customer or revenue per  
94 customer class amounts used to establish rates in such general rate  
95 proceeding.

96 8. A gas, water, or sewer corporation may terminate such  
97 revenue stabilization rate schedules effective on the next anniversary  
98 date of when such schedules first became effective, provided that the  
99 commission shall order any rate adjustments necessary to return to or

100 recover from customers the difference between the revenues billed  
101 during the last annual period and the revenues authorized in the  
102 corporation's most recently completed general rate proceeding.

103       **9. A gas, water, or sewer corporation may file its initial revenue**  
104 **stabilization rate schedules under subsection 1 of this section at any**  
105 **time, provided that the commission shall not be required to process and**  
106 **approve such initial schedules for more than three corporations in any**  
107 **one month during the first six months following the effective date of**  
108 **this section. Such initial rate schedules shall be processed by the**  
109 **commission in the same order in which they were filed.**

110       **10. The commission may take into account any change in**  
111 **business risk to the corporation resulting from implementation of the**  
112 **adjustment mechanism in setting the corporation's allowed return on**  
113 **equity in any general rate proceeding, in addition to any other changes**  
114 **in business risk experienced by the corporation.**

115       **11. No later than December 31, 2026, the commission shall**  
116 **prepare and file with the secretary of the senate and the chief clerk of**  
117 **the house of representatives a report on what impact, if any, the**  
118 **implementation of revenue stabilization rate schedules have had on**  
119 **gas, water, and sewer corporations and their customers. Participating**  
120 **gas, water, and sewer corporations shall cooperate in good faith to**  
121 **provide the data necessary for the preparation of the report required**  
122 **by this subsection.**

123       **12. This section shall expire on December 31, 2036. Upon**  
124 **expiration, the commission shall order any rate adjustments necessary**  
125 **to return to, or recover from, customers the difference between the**  
126 **revenues billed during the last annual period or portion thereof prior**  
127 **to termination and the revenues authorized in the corporation's most**  
128 **recently completed general rate proceeding.**

393.1000. As used in sections 393.1000 to [393.1006] **393.1007**, the  
2 following terms mean:

3       (1) "Appropriate pretax revenues", the revenues necessary to produce net  
4 operating income equal to:

5       (a) The water corporation's weighted cost of capital multiplied by the net  
6 original cost of eligible infrastructure system replacements, including recognition  
7 of accumulated deferred income taxes and accumulated depreciation associated  
8 with eligible infrastructure system replacements which are included in a

- 9 currently effective ISRS; and
- 10 (b) Recover state, federal, and local income or excise taxes applicable to
- 11 such income; and
- 12 (c) Recover all other ISRS costs;
- 13 (2) "Commission", the Missouri public service commission;
- 14 (3) "Eligible infrastructure system replacements", water utility plant
- 15 projects that:
- 16 (a) Replace or extend the useful life of existing infrastructure;
- 17 (b) Are in service and used and useful;
- 18 (c) Do not increase revenues by directly connecting the infrastructure
- 19 replacement to new customers; and
- 20 (d) Were not included in the water corporation's rate base in its most
- 21 recent general rate case;
- 22 (4) "ISRS", infrastructure system replacement surcharge;
- 23 (5) "ISRS costs", depreciation expenses and property taxes that will be due
- 24 within twelve months of the ISRS filing;
- 25 (6) "ISRS revenues", revenues produced through an ISRS, exclusive of
- 26 revenues from all other rates and charges;
- 27 (7) "Water corporation", every corporation, company, association, joint
- 28 stock company or association, partnership, and person, their lessees, trustees, or
- 29 receivers appointed by any court whatsoever, owning, operating, controlling, or
- 30 managing any plant or property, dam or water supply, canal, or power station,
- 31 distributing or selling for distribution, or selling or supplying for gain any water
- 32 to more than ten thousand customers;
- 33 (8) "Water utility plant projects" may consist only of the following:
- 34 (a) Mains, and associated valves and hydrants, installed as replacements
- 35 for existing facilities that have worn out or are in deteriorated condition;
- 36 (b) Main cleaning and relining projects; and
- 37 (c) Facilities relocations required due to construction or improvement of
- 38 a highway, road, street, public way, or other public work by or on behalf of the
- 39 United States, this state, a political subdivision of this state, or another entity
- 40 having the power of eminent domain provided that the costs related to such
- 41 projects have not been reimbursed to the water corporation.

393.1003. 1. Notwithstanding any provisions of chapter 386 and this

2 chapter to the contrary, as of August 28, 2003, a water corporation providing

3 water service in a county with a charter form of government and with more than



4 one million inhabitants may file a petition and proposed rate schedules with the  
5 commission to establish or change ISRS rate schedules that will allow for the  
6 adjustment of the water corporation's rates and charges to provide for the  
7 recovery of costs for eligible infrastructure system replacements made in such  
8 county with a charter form of government and with more than one million  
9 inhabitants; provided that an ISRS, on an annualized basis, must produce ISRS  
10 revenues of at least one million dollars but not in excess of ten percent of the  
11 water corporation's base revenue level approved by the commission in the water  
12 corporation's most recent general rate proceeding. An ISRS and any future  
13 changes thereto shall be calculated and implemented in accordance with the  
14 provisions of sections 393.1000 to 393.1006. ISRS revenues shall be subject to  
15 refund based upon a finding and order of the commission, to the extent provided  
16 in subsections 5 and 8 of section 393.1006.

17 2. The commission shall not approve an ISRS for a water corporation in  
18 a county with a charter form of government and with more than one million  
19 inhabitants that has not had a general rate proceeding decided or dismissed by  
20 issuance of a commission order within the past three years, unless the water  
21 corporation has filed for or is the subject of a new general rate proceeding.

22 3. In no event shall a water corporation collect an ISRS for a period  
23 exceeding three years unless the water corporation has filed for or is the subject  
24 of a new general rate proceeding; provided that the ISRS may be collected until  
25 the effective date of new rate schedules established as a result of the new general  
26 rate proceeding, or until the subject general rate proceeding is otherwise decided  
27 or dismissed by issuance of a commission order without new rates being  
28 established.

29 4. **Beginning January 1, 2017, a water corporation that files a**  
30 **petition to establish or change ISRS rate schedules under this section**  
31 **shall design and implement a voluntary lead testing program for its**  
32 **residential customers that are subject to ISRS rate schedules, with**  
33 **priority given to requests involving customer-owned lead service lines.**

393.1006. 1. (1) At the time that a water corporation files a petition with  
2 the commission seeking to establish or change an ISRS, it shall submit proposed  
3 ISRS rate schedules and its supporting documentation regarding the calculation  
4 of the proposed ISRS with the petition, **proof of compliance with section**  
5 **393.1007**, and shall serve the office of the public counsel with a copy of its  
6 petition, its proposed rate schedules and its supporting documentation.

7           (2) Upon the filing of a petition, and any associated rate schedules,  
8 seeking to establish or change an ISRS, the commission shall publish notice of the  
9 filing.

10           2. (1) When a petition, along with any associated proposed rate  
11 schedules[,] **and proof of compliance with section 393.1007** is filed pursuant  
12 to the provisions of sections 393.1000 to [393.1006] **393.1007**, the commission  
13 shall conduct an examination of the proposed ISRS.

14           (2) The staff of the commission may examine information of the water  
15 corporation to confirm that the underlying costs are in accordance with the  
16 provisions of sections 393.1000 to [393.1006] **393.1007**, and to confirm proper  
17 calculation of the proposed charge, and may submit a report regarding its  
18 examination to the commission not later than sixty days after the petition is filed.  
19 No other revenue requirement or ratemaking issues shall be examined in  
20 consideration of the petition or associated proposed rate schedules filed pursuant  
21 to the provisions of sections 393.1000 to [393.1006] **393.1007**.

22           (3) The commission may hold a hearing on the petition and any associated  
23 rate schedules and shall issue an order to become effective not later than one  
24 hundred twenty days after the petition is filed.

25           (4) If the commission finds that a petition complies with the requirements  
26 of sections 393.1000 to [393.1006] **393.1007**, the commission shall enter an order  
27 authorizing the water corporation to impose an ISRS that is sufficient to recover  
28 appropriate pretax revenues, as determined by the commission pursuant to the  
29 provisions of sections 393.1000 to [393.1006] **393.1007**.

30           3. A water corporation may effectuate a change in its rate pursuant to this  
31 section no more often than two times every twelve months.

32           4. In determining the appropriate pretax revenues, the commission shall  
33 consider only the following factors:

34           (1) The current state, federal, and local income or excise tax rates;

35           (2) The water corporation's actual regulatory capital structure as  
36 determined during the most recent general rate proceeding of the water  
37 corporation;

38           (3) The actual cost rates for the water corporation's debt and preferred  
39 stock as determined during the most recent general rate proceeding of the water  
40 corporation;

41           (4) The water corporation's cost of common equity as determined during  
42 the most recent general rate proceeding of the water corporation;

43           (5) The current property tax rate or rates applicable to the eligible  
44 infrastructure system replacements;

45           (6) The current depreciation rates applicable to the eligible infrastructure  
46 system replacements;

47           (7) In the event information called for in subdivisions (2), (3), and (4) is  
48 unavailable and the commission is not provided with such information on an  
49 agreed-upon basis, the commission shall refer to the testimony submitted during  
50 the most recent general rate proceeding of the water corporation and use, in lieu  
51 of any such unavailable information, the recommended capital structure,  
52 recommended cost rates for debt and preferred stock, and recommended cost of  
53 common equity that would produce the average weighted cost of capital based  
54 upon the various recommendations contained in such testimony.

55           5. (1) An ISRS shall be calculated based upon the amount of ISRS costs  
56 that are eligible for recovery during the period in which the surcharge will be in  
57 effect and upon the applicable customer class billing determinants utilized in  
58 designing the water corporation's customer rates in its most recent general rate  
59 proceeding. The commission shall, however, only allow such surcharges to apply  
60 to classes of customers receiving a benefit from the subject water utility plant  
61 projects or shall prorate the surcharge according to the benefit received by each  
62 class of customers; provided that the ISRS shall be applied in a manner  
63 consistent with the customer class cost-of-service study recognized by the  
64 commission in the water corporation's most recent general rate proceeding, if  
65 applicable, and with the rate design methodology utilized to develop the water  
66 corporation's rates resulting from its most recent general rate proceeding.

67           (2) At the end of each twelve-month calendar period that an ISRS is in  
68 effect, the water corporation shall reconcile the differences between the revenues  
69 resulting from an ISRS and the appropriate pretax revenues as found by the  
70 commission for that period and shall submit the reconciliation and a proposed  
71 ISRS adjustment to the commission for approval to recover or refund the  
72 difference, as appropriate, through adjustment of an ISRS.

73           6. (1) A water corporation that has implemented an ISRS pursuant to the  
74 provisions of sections 393.1000 to [393.1006] **393.1007** shall file revised rate  
75 schedules to reset the ISRS to zero when new base rates and charges become  
76 effective for the water corporation following a commission order establishing  
77 customer rates in a general rate proceeding that incorporates in the utility's base  
78 rates subject to subsections 8 and 9 of this section eligible costs previously

79 reflected in an ISRS.

80 (2) Upon the inclusion in a water corporation's base rates subject to  
81 subsections 8 and 9 of this section of eligible costs previously reflected in an  
82 ISRS, the water corporation shall immediately thereafter reconcile any previously  
83 unreconciled ISRS revenues as necessary to ensure that revenues resulting from  
84 the ISRS match as closely as possible the appropriate pretax revenues as found  
85 by the commission for that period.

86 7. A water corporation's filing of a petition to establish or change an ISRS  
87 pursuant to the provisions of sections 393.1000 to [393.1006] **393.1007** shall not  
88 be considered a request for a general increase in the water corporation's base  
89 rates and charges.

90 8. Commission approval of a petition, and any associated rate schedules,  
91 to establish or change an ISRS pursuant to the provisions of sections 393.1000 to  
92 [393.1006] **393.1007** shall in no way be binding upon the commission in  
93 determining the ratemaking treatment to be applied to eligible infrastructure  
94 system replacements during a subsequent general rate proceeding when the  
95 commission may undertake to review the prudence of such costs. In the event the  
96 commission disallows, during a subsequent general rate proceeding, recovery of  
97 costs associated with eligible infrastructure system replacements previously  
98 included in an ISRS, the water corporation shall offset its ISRS in the future as  
99 necessary to recognize and account for any such overcollections.

100 9. Nothing contained in sections 393.1000 to [393.1006] **393.1007** shall  
101 be construed to impair in any way the authority of the commission to review the  
102 reasonableness of the rates or charges of a water corporation, including review  
103 of the prudence of eligible infrastructure system replacements made by a water  
104 corporation, pursuant to the provisions of section 386.390.

105 10. The commission shall have authority to promulgate rules for the  
106 implementation of sections 393.1000 to [393.1006] **393.1007**, but only to the  
107 extent such rules are consistent with, and do not delay the implementation of, the  
108 provisions of sections 393.1000 to [393.1006] **393.1007**. Any rule or portion of a  
109 rule, as that term is defined in section 536.010, that is created under the  
110 authority delegated in this section shall become effective only if it complies with  
111 and is subject to all of the provisions of chapter 536 and, if applicable, section  
112 536.028. This section and chapter 536 are nonseverable and if any of the powers  
113 vested with the general assembly pursuant to chapter 536 to review, to delay the  
114 effective date, or to disapprove and annul a rule are subsequently held

115 unconstitutional, then the grant of rulemaking authority and any rule proposed  
116 or adopted after August 28, 2003, shall be invalid and void.

**393.1007. 1. In order for a water corporation to file a petition**  
**2 with the commission to establish or change an ISRS, such corporation**  
**3 shall, by January 1, 2017, develop and file with the commission a pre-**  
**4 qualification process for contractors seeking to participating in**  
**5 competitive bidding to install ISRS-eligible water utility plant projects**  
**6 worth over one hundred thousand dollars. Under the pre-qualification**  
**7 process, the water corporation may specify certain eligibility**  
**8 requirements typically accepted by the industry, including but not**  
**9 limited to, experience, performance criteria, safety policies, and**  
**10 insurance requirements to be met by any contractor seeking to**  
**11 participate in competitive bidding to install ISRS-eligible water utility**  
**12 plant projects worth over one hundred thousand dollars. Under no**  
**13 circumstance shall the criteria set by the water corporation**  
**14 discriminate against any contractor for either contracting with or not**  
**15 contracting with, a labor organization or union, as those terms are**  
**16 defined in section 290.210, for installing such water utility plant**  
**17 projects. Contractors that meet the pre-qualification criteria set by the**  
**18 water corporation shall be eligible to participate in the competitive**  
**19 bidding process for installing ISRS-eligible water utility plant projects**  
**20 worth over one hundred thousand dollars, and the contractor making**  
**21 the overall lowest and best bid for installing the ISRS-eligible water**  
**22 utility plant project shall be awarded such contract. The water**  
**23 corporation shall file, by January 1, 2017, a verified statement with the**  
**24 commission confirming that it has in place a pre-qualification process**  
**25 for the competitive bidding of ISRS-eligible water utility plant projects,**  
**26 and that such process conforms with the requirements of this**  
**27 section. The commission shall have the authority to verify the**  
**28 statement to ensure compliance with this section. After January 1,**  
**29 2017, the water corporation shall submit with each petition filing to**  
**30 establish or change an ISRS a verified statement confirming that it is**  
**31 using a competitive bidding process for hiring pre-qualified contractors**  
**32 to install ISRS-eligible water utility plant projects worth over one**  
**33 hundred thousand dollars, and that such process conforms with the**  
**34 requirements set forth in this section. The commission shall have the**  
**35 authority to verify the statement to ensure compliance with this**

36 **section. Nothing in this section shall be construed as requiring any**  
37 **water corporation to use third parties instead of its own employees to**  
38 **perform such work, to use a pre-qualified contractor or competitive**  
39 **bidding process in the case of an emergency project, or to terminate**  
40 **any existing contract with a contractor prior to its expiration; provided**  
41 **however that the use of any existing contractor that has a pre-existing**  
42 **contract with a water corporation for the installation of ISRS-eligible**  
43 **water utility plant projects shall not qualify as fulfilling the**  
44 **requirements set forth in this section.**

45 **2. By December 31, 2018, and annually thereafter, the commission**  
46 **shall submit a report to the general assembly on the effects of this**  
47 **section, including water corporation compliance, potential legislative**  
48 **action regarding this section, the costs of installing ISRS-eligible water**  
49 **utility plant projects prior to the implementation of this section**  
50 **compared to after the implementation of this section, and any other**  
51 **information regarding the processes established under this section that**  
52 **the commission deems necessary.**

53 **3. This section shall expire on December 31, 2022.**

393.1012. 1. Notwithstanding any provisions of chapter 386 and this  
2 chapter to the contrary, beginning August 28, 2003, a gas corporation providing  
3 gas service may file a petition and proposed rate schedules with the commission  
4 to establish or change ISRS rate schedules that will allow for the adjustment of  
5 the gas corporation's rates and charges to provide for the recovery of costs for  
6 eligible infrastructure system replacements. The commission may not approve  
7 an ISRS to the extent it would produce total annualized ISRS revenues below the  
8 lesser of one million dollars or one-half of one percent of the gas corporation's  
9 base revenue level approved by the commission in the gas corporation's most  
10 recent general rate proceeding. The commission may not approve an ISRS to the  
11 extent it would produce total annualized ISRS revenues exceeding ten percent of  
12 the gas corporation's base revenue level approved by the commission in the gas  
13 corporation's most recent general rate proceeding **in any consecutive three-**  
14 **year period during which an ISRS is in effect, provided that ISRS**  
15 **charges applicable to residential customers shall not be increased by**  
16 **more than one dollar and fifty cents per month in any annual period as**  
17 **adjusted for any net increase or decrease in the Handy Whitman Index**  
18 **for gas pipeline construction costs occurring after August 28, 2016. If**

19 **such index becomes unavailable, then another index of a similar nature**  
20 **and effect shall be used.** An ISRS and any future changes thereto shall be  
21 calculated and implemented in accordance with the provisions of sections  
22 393.1009 to 393.1015, **including the requirement facilities replaced under**  
23 **paragraph (a) of subdivision (5) of section 393.1009 be in worn out or**  
24 **deteriorated condition.** ISRS revenues shall be subject to a refund based upon  
25 a finding and order of the commission to the extent provided in subsections 5 and  
26 8 of section 393.1009.

27         2. The commission shall not approve an ISRS for any gas corporation that  
28 has not had a general rate proceeding decided or dismissed by issuance of a  
29 commission order within the past **[three] five** years, unless the gas corporation  
30 has filed for or is the subject of a new general rate proceeding.

31         3. In no event shall a gas corporation collect an ISRS for a period  
32 exceeding **[three] five** years unless the gas corporation has filed for or is the  
33 subject of a new general rate proceeding; provided that the ISRS may be collected  
34 until the effective date of new rate schedules established as a result of the new  
35 general rate proceeding, or until the subject general rate proceeding is otherwise  
36 decided or dismissed by issuance of a commission order without new rates being  
37 established.

38         4. **In order for a gas corporation to file a petition with the**  
39 **commission to establish or change an ISRS, such corporation shall, by**  
40 **January 1, 2017, develop and file with the commission a pre-**  
41 **qualification process for contractors seeking to participate in**  
42 **competitive bidding to install ISRS-eligible gas utility plant**  
43 **projects. Under the pre-qualification process, the gas corporation may**  
44 **specify certain eligibility requirements typically accepted by the**  
45 **industry, including but not limited to, experience, performance criteria,**  
46 **safety policies, and insurance requirements to be met by any contractor**  
47 **seeking to participate in competitive bidding to install ISRS-eligible**  
48 **gas utility plant projects. Under no circumstance shall the criteria set**  
49 **by the gas corporation discriminate against any contractor for either**  
50 **contracting with or not contracting with, a labor organization or union,**  
51 **as those terms are defined in section 290.210, for installing such gas**  
52 **utility plant projects. Contractors that meet the pre-qualification**  
53 **criteria set by the gas corporation shall be eligible to participate in the**  
54 **competitive bidding process for installing ISRS-eligible gas utility**

55 plant projects, and the contractor making the overall lowest and best  
56 bid for installing the ISRS-eligible gas utility plant project shall be  
57 awarded such contract. The gas corporation shall file, by January 1,  
58 2017, a verified statement with the commission confirming that it has  
59 in place a pre-qualification process for the competitive bidding of ISRS-  
60 eligible gas utility plant projects, and that such process conforms with  
61 the requirements of this section. The commission shall have the  
62 authority to verify the statement to ensure compliance with this  
63 section. After January 1, 2017, the gas corporation shall submit with  
64 each petition filing to establish or change an ISRS a verified statement  
65 confirming that it is using a competitive bidding process for no less  
66 than ten percent of the combined external installation expenditures  
67 made by the gas corporation's operating units in Missouri for installing  
68 ISRS-eligible gas utility plant projects, and that such process conforms  
69 with the requirements set forth in this section. The commission shall  
70 have the authority to verify the statement to ensure compliance with  
71 this section. Nothing in this section shall be construed as requiring any  
72 gas corporation to use a pre-qualified contractor or competitive  
73 bidding process in the case of an emergency project, or to terminate  
74 any existing contract with a contractor prior to its expiration; provided  
75 however that the use of any preexisting contract for the installation of  
76 ISRS-eligible gas utility plant projects shall not qualify as fulfilling the  
77 ten percent requirement set forth in this section beyond December 31,  
78 2017.

79       5. By December 31, 2018, and annually thereafter, the commission  
80 shall submit a report to the general assembly on the effects of this  
81 section, including gas corporation compliance, potential legislative  
82 action regarding this section, the costs of installing ISRS-eligible gas  
83 utility plant projects prior to the implementation of this section  
84 compared to after the implementation of this section, and any other  
85 information regarding the processes established under this section that  
86 the commission deems necessary.

87       6. Nothing in this section shall be construed as diminishing in  
88 any way the current authority and rights of the commission, on its own  
89 motion, the staff of the commission, public counsel, the mayor or the  
90 president or chairman of the board of aldermen or a majority of the  
91 council, commission, or other legislative body of any city, town, village,



92 or county located in the service territory of the gas corporation, or not  
93 less than twenty-five consumers or purchasers, or prospective  
94 consumers or purchasers, of gas from the gas corporation to file a  
95 complaint under section 386.390 alleging that the rates or charges of  
96 the gas corporation are unreasonable or unlawful.

97 7. Sections 393.1009, 393.1012, and 393.1015 shall automatically  
98 terminate on December 31, 2036.

✓

Unofficial

Bill

Copy